

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE SEPTEMBER 11 LITIGATION

WORLD TRADE CENTER PROPERTIES LLC, et al.,

Plaintiffs,

-against-

UNITED AIRLINES, INC., et al.,

Defendants.

WORLD TRADE CENTER PROPERTIES LLC, et al.,

Plaintiffs,

-against-

AMERICAN AIRLINES, INC., et al.,

Defendants.

ALVIN K. HELLERSTEIN, U.S.D.J.:

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 10/26/10

**ORDER DENYING MOTION
FOR CERTIFICATION OF
INTERLOCUTORY APPEALS
UNDER 28 U.S.C. § 1292(b)**

21 MC 101 (AKH)

08 Civ. 3719

08 Civ. 3722

The WTCP Plaintiffs move to certify several previous orders for interlocutory appeal under 28 U.S.C. § 1292(b). I previously denied this motion in my order of September 30, 2009. I now deny it again.

The WTCP Plaintiffs seek to certify for appeal my orders limiting the amount of damages recoverable from the Aviation Defendants, regulating admissible evidence, and finding the amount of damages over and above the WTCP Plaintiffs' insurance recoveries, if any, to be

an issue requiring expert testimony. Order Regulating Admissible Evidence on Motion for Summary Judgment, 21 MC 101, Doc. No. 613 (S.D.N.Y. Aug. 28, 2008); Order Granting in Part and Denying in Part Motion for Summary Judgment Regarding Damages, 21 MC 101, Doc. No. 677 (S.D.N.Y. Dec. 10, 2008); Order Reclassifying and Denying World Trade Center Properties Plaintiffs' Motion for Reconsideration, 21 MC 101, Doc. No. 793 (S.D.N.Y. April 29, 2009); Order Denying Motion for Reconsideration or for § 1292(b) Certification, 21 MC 101, Doc. No. 821 (S.D.N.Y. May 26, 2009); Summary Order Regarding Motion for Collateral Setoff and Summary Judgment, 21 MC 101, Doc. No. 945 (S.D.N.Y. Sept. 30, 2009). As before, certification is unwarranted.

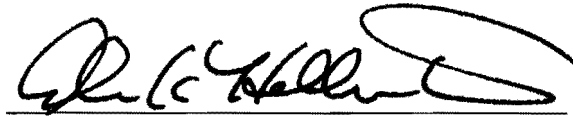
There is but one relatively small issue remaining to be litigated before the WTCP Plaintiffs' cases become final: whether the WTCP Plaintiffs' recoveries of insurance proceeds suffice to compensate it for all potential tort recoveries from the Aviation Defendants. See N.Y.C.P.L.R. § 4545. I previously held that this issue requires submission of expert testimony, and cannot be decided on motion. See Summary Order Regarding Motion for Collateral Setoff and Summary Judgment, 21 MC 101, at *1. Because this narrow issue is all that remains, a lengthy and complicated trial of liability issues is unnecessary. Hence, the prospect of finality is close at hand. Yet rather than complete its case, the WTCP Plaintiffs prefer to file repeated motions for interlocutory appeal. The WTCP Plaintiffs have done nothing to advance their cases since my order of September 30, 2009.

Certification for interlocutory appeal under § 1292(b) require finding that "an immediate appeal . . . may materially advance the ultimate termination of the litigation." I cannot so find. An immediate appeal will only confuse and complicate other proceedings, slow up proceedings in this Court, and needlessly enlarge the records and briefs before the Court of

Appeals. I held previously for all the reasons set out in § 1292(b) that certification is unwarranted. I hold so again.

The Clerk shall mark the motion (Doc. No. 1300) terminated.

Dated: SO ORDERED.
October 26 2010
New York, New York


ALVIN K. HELLERSTEIN
United States District Judge